

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 137 of 1997

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MOHAMMED HANIF GULAMNABI MEMON

Versus

HARISHANKERSINH

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Appearance:

MR TS NANAVATI for Petitioner

MR SR DIVETIA APP for Respondent No. 1, 2

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/06/98

ORAL JUDGEMENT

Heard Mr. T.S.Nanavati, the learned advocate appearing for the petitioner and Mr. S.R.Divetia, the learned APP appearing for the respondents.

This application has been preferred against the judgment and order of the learned Additional Sessions Judge, Sabarkantha, passed in Criminal Appeal No. 31/93

on 3rd February, 1996. An offence for transporting the forest goods without the permission was registered [ against the petitioner. Under order dated 24th September, 1993, made by the Competent Officer and Deputy Conservator of Forests, Sabarkantha, the forest goods in question was ordered to be confiscated. Feeling aggrieved, the petitioner preferred the above referred Criminal Appeal No. 31/93, before the learned Sessions Judge, Sabarkantha. The said Appeal was heard and decided by the learned Additional Sessions Judge on 3rd February, 1996.

Mr. Nanavati has relied upon the judgment of this court in the matter of STATE OF GUJARAT VS SIDIK HAJI IBRAHIM PATEL ( 1996 (1) GLR, 789) and has submitted that in view of the provisions contained in section 61-D of the Indian Forest Act, the learned Sessions Judge alone is competent to hear and decide the appeal and the impugned judgment and order passed by the learned Additional Sessions Judge is, therefore, without jurisdiction and requires to be quashed and set aside.

In view of the above referred judgment, the petition requires to be allowed on the ground of want of jurisdiction alone. I, therefore, do not deal with rest of the contentions raised by Mr. Nanavati.

In the result, this petition is allowed. The judgment and order passed in Criminal Appeal No. 31/93 passed by the learned Additional Sessions Judge, Sabarkantha, are hereby quashed and set aside. The appeal is remanded to the learned Sessions Judge, Sabarkantha, who shall hear the appeal and shall dispose of the same in accordance with law. Rule is made absolute accordingly. There shall be no order as to costs. Registry is directed to send the writ forthwith.

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JOSHI